IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE SIXTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO : 13866 of 2004

Between:

Shaik younus S/o Shaik Zainuddin
R/o Sultanguda, Karameri, Mandal Kerameri District Adilabad, A.P.,

..... PETITIONER

AND

1 Government of A.P., rep. by Principal Secretary, Panchayath Raj Department, at A.P. Secretariat, Saifabad, Hyderabad-A.P.
2 District Panchayath Officer, Adilabad, Office at Adilabad, District Adilabad.
3 Mandal Revenue Officer, Kerameri Mandal, Office at Keramerimandal, District Adilabad.
4 The Divisional Panchayat Officer, Office at Asifabad, Districct Adilabad.
5 Sarpanch Grampanchayat office at Kerameri Mandal Kerameri Adilabad District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ more appropriately a Writ of Mandamus declaring the impugned proceedings LR. No. 383/K4. Pts/04, dated 27-07-2004 is ultra virus, illegal and void in the interest of justice and equity or to pass any other order or orders deem fit and proper in the circumstances of the case.

Counsel for the Petitioner:MR.A.M.QURESHI

Counsel for the Respondents: GP FOR PANCHAYAT RAJ & RURAL DEV.

The Court made the following :

ORDER:

On an allegation against the petitioner, who is a ward member of Ward No.8 of Kerameri Gramapanchayat, Kerameri Mandal, Adilabad District, action was initiated by the second respondent. By a letter dated 27.07.2004, the second respondent informed the fifth respondent to issue notice of disqualification to the petitioner. The Divisional Panchayat Officer, Asifabad, to whom a copy of the letter was marked, was requested to guide the Sarpanch in giving disqualification intimation. Apprehending that even before the enquiry could be completed, the petitioner has been declared disqualified, the petitioner has approached this Court seeking a writ of mandamus declaring that the impugned order is null and void.

I have heard the learned counsel for the petitioner Sri A.M.Qureshi and learned Government Pleader for Panchayat Raj Sri Janaki Rami Reddy.

Reading of Sub-section (1) of Section 22 of A.P.Panchayat Raj Act, 1994 (for short, the Act) would reveal that when allegation is made that a member or a Sarpanch is disqualified either by reason of Sections 17,18,19 or 20 of the Act, the executive authority has to give intimation to such member/Sarpanch through District Panchayat Officer. On receiving such intimation, a member may move the District Court for a finding as to whether he incurred any disqualification by reason of various provisions mentioned hereinabove. Till enquiry is completed by District Court, by reason of Sub-section (2) of Section 22 of the Act, such a member shall be entitled to act as if he is not disqualified. A reading of the impugned notice would show that the District Panchayat Officer asked the executive authority of the Gram Panchayat to issue intimation in writing as contemplated under Sub-section 22(1) of the Act. The same does not purport to disqualify the petitioner under Section 19(3) of the Act or any other provision. If the petitioner is aggrieved by the intimation of the Sarpanch, he may approach the District Court and seek a finding on the question. In that view of the matter, I do not see any infirmity in the impugned letter. However, it is made clear that unless and until the District Court either at the instance of the executive authority or the petitioner or the Commissioner, gives a decision on the question of disqualification of the petitioner, he shall be continued as a member of the eighth ward. The petitioner may make an application to the District Court within a period of one week after receiving intimation from the executive authority.

The writ petition is accordingly disposed of at the admission stage.

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(V.V.S.RAO,J)

06.08.2004.

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To

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6 2 CCs to the G.P for Panchayat Raj and Rural Development, High Court Buildings, Hyderabad.

7 2 CD copies.